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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(C-570-017)

Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (the PRC) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the estimated subsidy rates, *see* the "Final Determination" section of this notice. The period of investigation is January 1, 2013, through December 31, 2013.

DATES: Effective date (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Emily Halle, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; Phone: (202) 482-0176.

## SUPPLEMENTARY INFORMATION:

### *Background*

The Department published the *Preliminary Determination* on December 1, 2014,<sup>1</sup> and the *Amended Preliminary Determination* on December 30, 2014.<sup>2</sup> A summary of the events that occurred since the Department published the *Amended Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Final Decision Memorandum.<sup>3</sup> The Final Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Final Decision Memorandum and the electronic version are identical in content.

### *Scope of the Investigation and Scope Comments*

The products covered by this investigation are certain passenger tires from the PRC. The products covered by the investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the

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<sup>1</sup> See *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Affirmative Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 79 FR 71093 (December 1, 2014) (*Preliminary Determination*).

<sup>2</sup> See *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Affirmative Preliminary Determination*, 79 FR 78398 (December 30, 2014) (*Amended Preliminary Determination*).

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China," (Final Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

The Department received comments regarding the scope of this investigation from numerous interested parties, which we have summarized and addressed in the accompanying Final Decision Memorandum.<sup>4</sup> As explained in the Final Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that "N" speed-rated specialty trailer tires that meet certain requirements are excluded from the scope.<sup>5</sup> For a complete description of the scope of the investigation, *see* Appendix II to this notice.

#### *Analysis of Subsidy Programs and Comments Received*

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Final Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Final Decision Memorandum, is attached to this notice at Appendix I.

#### *Use of Adverse Facts Available*

The Department notes that, in making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we applied adverse facts available.<sup>6</sup> For purposes of this final determination, we applied adverse facts available in several instances, including with regard to the net subsidy rate assigned to Shandong Yongsheng Rubber Group Co., Ltd. (Yongsheng).

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<sup>4</sup> *See* Final Decision Memorandum at Comments 25 and 26.

<sup>5</sup> *Id.*

<sup>6</sup> *See* sections 776(a) and (b) of the Act.

For further information, *see* the section “Use of Facts Otherwise Available and Adverse Inferences,” in the Final Decision Memorandum.

#### *Changes Since the Preliminary Determination*

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to the respondents’ subsidy rate calculations since the *Preliminary Determination* and *Amended Preliminary Determination*. For a discussion of these changes, *see* the Final Decision Memorandum and the Final Analysis Memoranda.<sup>7</sup>

#### *Final Affirmative Determination of Critical Circumstances, in Part*

In the *Preliminary Determination*, the Department found that critical circumstances exist with respect to imports of passenger tires from the PRC for Yongsheng and all other exporters or producers not individually examined.<sup>8</sup> Upon further analysis of the data and comments submitted by interested parties following the *Preliminary Determination*, we are modifying our findings for the *Final Determination*.<sup>9</sup> Specifically, in accordance with section 705(a)(2) of the Act, we find that critical circumstances exist with respect to imports from GITI Tire (Fujian) Co., Ltd. (GITI Fujian), Yongsheng, and all other producers or exporters, but do not exist for Cooper (Kunshan) Tire Co., Ltd. (Cooper).

#### *Final Determination*

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for GITI Fujian and Cooper, the only two individually investigated exporters/producers of the subject

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<sup>7</sup> *See* Final Decision Memorandum; *see also* Memoranda, “Final Determination Analysis for GITI Tire (Fujian) Company Ltd.,” and “Final Determination Analysis for Cooper (Kunshan) Tire Co., Ltd.,” (collectively, Final Analysis Memoranda), dated concurrently with this determination and hereby adopted by this notice.

<sup>8</sup> *See Preliminary Determination*, 79 FR at 71094.

<sup>9</sup> For a full description of the methodology and results of our analysis, *see* the Final Decision Memorandum.

merchandise that participated in this investigation.<sup>10</sup> We adjusted the cash deposit rates for GITI Fujian, Yongsheng, and all other producers or exporters to reflect our finding that a program-wide change exists with regard to one subsidy program.<sup>11</sup> The cash deposit rates listed below reflect this adjustment.

In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents with those companies’ export sales of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all others rate should exclude zero and *de minimis* rates calculated for the exporters and producers individually investigated, and any rates determined entirely under section 776 of the Act. We therefore have excluded Yongsheng’s rate from the all others rate.

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the all others rate by weight-averaging the rates of GITI Fujian and Cooper because doing so risks disclosure of proprietary information. Therefore, and consistent with the Department’s practice where such risk exists, for the all others rate, we calculated a weight average of GITI Fujian’s and Cooper’s rates using publicly ranged data.<sup>12</sup> Since both GITI

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<sup>10</sup> The individually-investigated exporters/producers are (1) GITI Tire (Fujian) Co., Ltd., and its cross-owned affiliated companies GITI Tire (China) Investment Company Ltd., GITI Radial Tire (Anhui) Company Ltd., GITI Tire (Hualin) Company Ltd., GITI Steel Cord (Hubei) Company Ltd., Anhui Prime Cord Fabrics Company Ltd., GITI Tire Corporation, GITI Tire (Anhui) Company Ltd., GITI Greatwall Tire (Yinchuan) Company Ltd., GITI Steel Cord (Anhui) Company Ltd., Anhui Prime Cord Weaving Company Ltd., and Anhui Prime Cord Twisting Company Ltd.; (2) Cooper Kunshan Tire Co., Ltd., and its cross-owned affiliated company, Cooper Chengshan (Shandong) Tire Co., Ltd.; and (3) Yongsheng.

<sup>11</sup> See Final Decision Memorandum at Comment 15.

<sup>12</sup> See, e.g., *Countervailing Duty Investigation of Chlorinated Isocyanurates From the People’s Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Determination*, 79 FR 10097, 10098 (February 24, 2014), unchanged in *Countervailing Duty Investigation of Chlorinated Isocyanurates From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 79 FR 56560, 56562 (September 22, 2014); see also Memorandum, “Calculation of the All Others Rate for the Final Determination,” June 11, 2015.

Fujian and Cooper received countervailable export subsidies and the all others rate is an average based on the individually investigated respondents, the all others rate includes export subsidies.

We determine the total estimated net countervailable subsidy rates to be:

<b>Company</b>	<b>Subsidy Rate</b>	<b>Cash Deposit Rate</b>
GITI Tire (Fujian) Co., Ltd. and certain cross-owned companies	37.20%	36.79%
Cooper Kunshan Tire Co., Ltd and certain cross-owned companies	20.73%	20.73%
Shandong Yongsheng Rubber Group Co., Ltd.	100.77%	100.37%
All Others	30.87%	30.61%

#### *Continuation of Suspension of Liquidation*

As a result of our *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption, on or after September 2, 2014 (for those entities for which we found critical circumstances exist) or on or after December 1, 2014, the date of publication of the *Preliminary Determination* in the *Federal Register* (for all entities for which we did not find critical circumstances exist). In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after March 31, 2015, but to continue the suspension of liquidation of all entries from September 2, 2014, or December 1, 2014, as the case may be, through March 30, 2015.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of

subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

#### *ITC Notification*

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

#### *Notification Regarding Administrative Protective Orders*

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the  
Act.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

June 11, 2015  
Date



Appendix I  
List of Topics Discussed in the Final Decision Memorandum

- I. Summary
  - II. Background
  - III. Final Determination of Critical Circumstances, in Part
  - IV. Scope of the Investigation
  - V. Application of the Countervailing Duty Law to Imports from the PRC
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- Comment 1: Whether GITI Fujian's Input Suppliers are Authorities
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  - Comment 23: Whether Seasonality Exists in the Critical Circumstances Data
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Comment 25: Whether to Modify the Language of the Exclusion on Special Trailer (ST) Tires  
Comment 26: Whether Slingshot Tires Are Included in the Scope

## XI. Recommendation

## Appendix II

### Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P - Identifies a tire intended primarily for service on passenger cars

LT- Identifies a tire intended primarily for service on light trucks

Suffix letter designations:

LT - Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires:

- (1) racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;
- (2) new pneumatic tires, of rubber, of a size that is not listed in the passenger car section or light truck section of the *Tire and Rim Association Year Book*;
- (3) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- (4) non-pneumatic tires, such as solid rubber tires;
- (5) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

- (a) the size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1B ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) of the *Tire and Rim Association Year Book*,
  - (b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,
  - (c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Year Book*, and the rated speed is 81 MPH or a "M" rating;
- (6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:
- (a) the size designation molded on the tire's sidewall is listed in the ST sections of the *Tire and Rim Association Year Book*,
  - (b) the designation "ST" is molded into the tire's sidewall as part of the size designation,
  - (c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",
  - (d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the *Tire and Rim Association Year Book* for the relevant ST tire size, and
  - (e) either
    - (i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by *Tire and Rim Association Year Book*, and the rated speed does not exceed 81 MPH or an "M" rating; or
    - (ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either
      - (1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the *Tire and Rim Association Year Book*; or
      - (2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the *Tire and Rim Association Year Book*, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the *Tire and Rim Association Year Book*;
- (7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:
- (a) the size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the *Tire and Rim Association Year Book*,
  - (b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",
  - (c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the *Tire and Rim Association Year Book*, and the rated speed does not exceed 55 MPH or a "G" rating, and
  - (d) the tire features a recognizable off-road tread design.

The products covered by the investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

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